

## LEGISLATIVE SERVICE AGENCIES

### Office of the Auditor

Article VII, Section 10, of the Hawaii Constitution provides for the appointment of the Auditor. The Auditor is appointed by a majority vote of each house in joint session for a term of eight years. By a two-thirds vote of the members of the Legislature in joint session, the Auditor may be removed from office for cause.

The powers and duties of the Auditor are provided for in chapter 23, Hawaii Revised Statutes. The Auditor conducts post-audits of all transactions, books, accounts, programs, and performances of state and county departments, agencies, and offices. The post-audits are intended to discover any evidence of unauthorized, illegal, irregular, or unsafe handling or expenditure of state funds. In addition, post-audits are conducted to evaluate financial administration and programs and performance of state and county agencies. The Auditor also carries out procurement compliance audits and analyses of proposed mandatory health insurance, professional and occupational regulatory programs, and special, revolving, and trust funds. The Auditor also conducts such studies and investigations as may be directed by the Legislature.

The Auditor is provided with the authority to examine and inspect all books, records, files, papers, documents, and all financial affairs of every state and county agency. The Auditor may issue subpoenas compelling testimony or the production of other evidence.

**State Ethics Commission.** The State Ethics Commission, established within the Office of the Auditor for administrative purposes under section 84-21, Hawaii Revised Statutes, consists of five members. Members of the Commission can hold no other public office and must be United States citizens and residents of the State. The original members of the Commission were appointed by the Governor from a panel of ten persons nominated by the Judicial Council. Members of the Commission serve for four years and cannot be appointed to more than two consecutive terms. Vacancies are filled by gubernatorial appointment from a list of two persons submitted by the Judicial Council.

The Commission serves as the mechanism through which problems of conflicting interest in public office are resolved and eliminated. The Commission prescribes forms for the disclosures required by Article XIV, the Code of Ethics, of the State Constitution and section 84-17, and the gifts disclosure statements required by section 84-11.5, Hawaii Revised Statutes, and establishes procedures for implementing the requirements of these provisions. In cases relating to the Code of Ethics, the Commission renders advisory opinions based on the facts and circumstances found in its investigations. It may initiate, receive, and consider charges concerning violations of ethics laws and may investigate and hold hearings relative to the charges. The Commission has the authority to subpoena witnesses and to receive testimony under oath on matters before it and may require the production of records and documents required in its investigation.

The Commission administers chapter 97, Hawaii Revised Statutes, relating to lobbyists. The Commission prescribes statements and reports required on the registration of and contributions and expenditures by lobbyists. Hearings are conducted by the Commission on alleged violations of the lobbyists law and referral on such matters is made to the state Attorney General or Prosecuting Attorney of Honolulu.

## **Legislative Reference Bureau**

The Legislative Reference Bureau, established under section 23G-1, Hawaii Revised Statutes, drafts bills and provides impartial research and reference services on legislative issues to the Legislature and legislators. The Director of the Legislative Reference Bureau is appointed for a six-year term by a majority vote of each house of the Legislature in joint session, and may be removed by two-thirds vote of the members in joint session for reasons of neglect of duty, misconduct, or disability. Employees of the Bureau are hired by the Director and serve at the Director's pleasure. The staff of the Bureau is prohibited by law from revealing to any person outside of the Bureau the contents of any request for services except with the consent of the requestor.

As part of its research and reference service, the Bureau cooperates with other states and territories in securing reports and information on all matters relating to legislative problems. The Bureau also maintains a reference library for the use of the Legislature, legislative service agencies, departments, agencies, and the general public. Upon request by the Legislature, the Bureau conducts studies and performs legal research on matters necessary for the enactment of substantive legislation and serves in an advisory capacity to the Legislature and its committees and to other legislative service agencies.

The Bureau is charged with controlling and maintaining any legislative data processing program that may be established. The use of electronic data processing by the Legislature provides on-line search capabilities for information on bills and resolutions introduced in the Legislature, for the Hawaii Revised Statutes, for miscellaneous information concerning the Legislature, such as committees and governor's messages, and for the library catalogues of the Bureau Library and several other government research libraries in a cooperative network.

The Bureau also provides assistance to the general public in finding and following legislative measures through its legislative information systems office which is in charge of the legislative data processing program.

**Revisor of Statutes.** Chapter 23G, part II, Hawaii Revised Statutes, provides for statute revision and publication. Under section 23G-11, Hawaii Revised Statutes, the Director, or a member of the staff of the Bureau designated by the Director, is the Revisor of Statutes of the State. The duties of the Revisor are: the publication of the session laws and supplement to, and replacement volumes of, the Revised Statutes; review of annotations to the Revised Statutes; continuous revision of the statutes; publication of the Hawaii Administrative Rules index and supplements thereto; and the preparation of rules of format to be followed by all state agencies in

the compilation and publication of their rules. The rules and the index are prepared so as to be accessible to the public in the Office of the Lieutenant Governor.

As soon as possible after the close of each legislative session, the laws enacted by the Legislature are prepared for publication with a suitable index and tables showing what statutes have been affected. In addition, a cumulative pocket part supplement to the last revision of the laws of Hawaii, containing all laws of a general and permanent nature enacted subsequent to the last revision of the laws, and a cumulative index are prepared. The statutes are annotated by references to relevant congressional acts, case laws, law journal articles, and related state statutes.

Copies of the session laws and supplements are printed and delivered to the Lieutenant Governor for distribution. The Lieutenant Governor determines the price and then distributes and sells the session laws and supplements.

A systematic and continuing study of the laws of Hawaii is also conducted by the Revisor for the purpose of reducing their number and bulk; removing inconsistencies, redundancies, unnecessary repetitions, and otherwise improving their clarity.

**Public Access Room.** The Public Access Room, established in the State Capitol and maintained by the Bureau, pursuant to section 21G-2, Hawaii Revised Statutes, serves members of the public by providing facilities, services, and equipment to enhance their ability to participate in the legislative process.

## **Ombudsman**

The Office of the Ombudsman accepts and investigates complaints by the public about any action or inaction by any officer or employee of an executive agency of the state or county government. The Ombudsman is appointed to a six-year term by a majority vote of each house of the Legislature in joint session, and may be removed by two-thirds vote of the members in joint session for reasons of neglect of duty, misconduct, or disability. The Ombudsman is an independent, nonpartisan officer of the Legislature. Strictly speaking, the Office does not function directly as a legislative service agency; it is instead a service to the public provided by the Legislature. Being a part of the legislative branch of government, the Ombudsman's power to investigate may be considered an extension of the power of legislative oversight.

The Ombudsman investigates administrative acts which might be:

- (1) Contrary to law;
- (2) Unreasonable, unfair, oppressive, or unnecessarily discriminatory, even though in accordance with law;
- (3) Based on a mistake of fact;

- (4) Based on improper or irrelevant grounds;
- (5) Unaccompanied by an adequate statement of reasons;
- (6) Performed in an inefficient manner; or
- (7) Otherwise erroneous.

The investigations of the Office may also lead to recommendations for appropriate remedies to correct the problems leading to the complaints.

The Ombudsman may, by subpoena, compel the appearance of persons to testify on, and compel the production of documents, papers, or objects relating to the matter under investigation. The Ombudsman is required by law to maintain secrecy in respect to all matters and the identities of complainants or witnesses appearing before the Ombudsman.

Before issuing a statement or recommendation that is critical of any agency or person, the Ombudsman must consult with the agency or person. After an investigation, an opinion and recommendations to the agency are reported if the Ombudsman finds that:

- (1) The matter should be further considered by the agency;
- (2) An administrative act should be modified or canceled;
- (3) A statute or regulation on which an administrative act is based should be altered;
- (4) Reasons should be given for an administrative act; or
- (5) Any other action should be taken by the agency.

The agency may be requested to notify the Ombudsman, within a specified time, of any action taken on recommendations.

After a reasonable time has elapsed after a report of recommendations to the agency, the Ombudsman may submit a report to the Governor, the Legislature, or the public, including any reply made by the agency. The complainant is also notified of the actions taken by the Ombudsman and by the agency.

Central to the classical principle of the Ombudsman institution is that the Office has no actual power to change administrative decisions or actions; instead it must rely on reasoned persuasion on the agencies to resolve justified complaints.

